IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.3832 OF 1999

Shri C.V. Sasidharan
Occ: Service
Residing at 217/5821
Paul Nagar, R.N.Narkar Marg
Ghatkopar East, Mumbai-400 075. ..Petitioner

Vs.

1. Industrial Development
Bank of India
I.D.B.I. Tower, Cuffe Parade
Bombay-400 005.

2. Mr. J.H. Punjabi
Dy. General Manager
I.D.B.I. Tower Cuffe
Parade, Mumbau-400 005. ..Respondents

Mr.C.V.Sasidharan, Petitioner in person
Mr.M.P.S.Rao with Mr. Mihir Madi &
Ms. Deepali Wakde i/b. M/s. K.Ashar and Co.
for Respondent Nos.1 & 2.

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 26TH APRIL, 2005.

JUDGMENT (PER F.I.REBELLO,J.)

. Considering the order of 9th March, 2005 the Petitioner was allowed to appear in person. Petitioner has submitted his arguments in the form of replies filed before this Court.

2. The present challenge by the Petitioner is to the punishment imposed pursuant to the Disciplinary Proceedings initiated against the Petitioner by the Respondent No.1. Pursuant to the Disciplinary Proceedings the Disciplinary Authority

by way of punishment has directed reduction in the pay of the Petitioner by five stages. It is this order which is the subject matter of the present Petition.

3. We have heard learned Counsel for the Respondent. From the records and as submitted to us the following facts emerge:-

. On 17th September, 1990 the Petitioner was issued a show-cause notice for tampering with the Muster Roll. The Petitioner was there after absent between the period from 11th September, 1990 to 26th September, 1990. A show-cause notice was issued to him on 31st December, 1990. Petitioner filed a reply on 4th June, 1991. A chargesheet was issued to the Petitioner on 4th March, 1991. On account of representation by the Petitioner a de novo Enquiry was ordered. Pursuant to the enquiry in respect of both the charges an order came to be passed by the Competent Authority on 15th July, 1997 imposing punishment of reduction in the pay scale by three increments.

4. On 11th July, 1991 the Petitioner was charghesheeted consequent on his rude behaviour with Senior Officers. Another notice was issued for acts of misconduct on 22nd August, 1991. The Petitioner

was chargesheted for the misconducts as alleged by Chargesheets dated 22nd August, 1991 and 8th November, 1991. On 28th April, 1993 the Enquiry Officer found the Petitioner guilty in respect of both the charges. On 29th June, 1993 the Enquiry Officer submitted his report. Pursuant to the findings an opportunity was given to the Petitioner. The Competent Authority imposed punishment of reduction of five increments in the pay scale of the Petitioner by order dated 16th September, 1993. The Petitioner preferred an appeal against the said order which was rejected on 18th August, 1994. It is this which is the subject matter of the present Petition.

5. We have considered the submissions made on behalf of the Petitioner. A reply has been filed on behalf of Respondent dated 30th December, 1999. An additional affidavit has been filed by Mr. K.P. Nair, Deputy General Manager dated 8th April, 2005. When the matter came up before this Court on 12th January, 2000 while issuing Rule this Court noted the contentions raised on behalf of the Respondents that the Petitioner was not doing his work. On behalf of the Petitioner a statement was made that the Petitioner is working and shall work. The Petitioner was called upon to file undertaking. Such undertaking was filed. It is the Respondent’s

contention that inspite of the undertaking, the Petitioner has not been doing his work sincerely and various acts have been pointed out. It is also pointed out that on account of complaint filed by an Employees to the Ghatkopar Police Station the Petitioner was arrested on 3rd November, 2004 and produced before the Court on 4th November, 2004 and he was granted bail. Considering Rule 43 of Staff Rules the Petitioner is under suspension

. We really are not concerned with the same except to examine and as to whether the punishment imposed is harsh. In the instant case Petitioner has been unable to show that enquiry conducted was in violation of the principles of natural justice and fair play and/or the rules. Once that be the case it will not be possible to interfere on that count. The findings of the Enquiry Officer or findings of the facts which have been recorded after giving Petitioner an opportunity. It would therefore, not be possible to interfere with the findings of the Enquiry Officer as upheld by the Competent Authority that the Petitioner is guilty of the acts of misconduct alleged and proved. Petition has been filed to show that the findings are perverse.

6. The only question that remains is whether

the punishment can be said to be disproportionate to the misconduct alleged. In the instant case the Petitioner had earlier been chargesheeted and had been found guilty and punishment imposed. This is the second time the Petitioner was found guilty for acts of misconduct. The punishment imposed is in the nature of reducing the Petitioner's salary. We do not find considering the facts of misconduct alleged and proved and considering the past record of the Petitioner that the punishment imposed can be said to be disproportionate and arbitrary.

7. For the reasons aforesaid we find no merits in the Petition. Accordingly Rule discharged. In the circumstances there shall be no order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)